



DEPARTMENT OF MENTAL HEALTH POLICY/PROCEDURE

SUBJECT ACCESS TO PUBLIC RECORDS	POLICY NO. 104.6	EFFECTIVE DATE 10/1/89	PAGE 1 of 4
APPROVED BY: Original signed by: ROBERTO QUIROZ Director	SUPERSEDES 320 3/31/89	ORIGINAL ISSUE DATE 3/31/89	DISTRIBUTION LEVEL(S) 1, 3

PURPOSE

- 1.1 To ensure that a uniform process exists for the inspection of Department of Mental Health (DMH) records deemed to be public records.

BACKGROUND

- 2.1 The California Public Records Act was adopted in 1968. Through the enactment of this Government Code, Section 6254, the Legislature, mindful of the right of individuals to privacy, found and declared that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in the State.

POLICY

- 3.1 Public records are open, by appointment, to inspection at all times during normal County office hours. Every person has a right to inspect any public record except those records that are legally exempt. (See attached Government Code, Section 6254).
- 3.2 Requests to inspect or receive copies of public records shall be honored if the procedures below are honored and if the requests are specific and legitimate, i.e., not used as harassments.
- 3.2.1 Public Records are defined as any storage medium (paper, magnetic tape, microfilm, etc.) containing information relating to the conduct of Departmental business not deemed to be exempt.
- 3.2.2 Exempt Records are public records exempted by law from public inspection or copying. These exemptions are permissive; a public agency may release information if it falls within the scope of one of the exemptions as long as the release is not prohibited by another law. Routinely, disclosure of an otherwise exempt public record to any member of the public constitutes a waiver of any exemptions as to that record; there can be no selective disclosure. Within the DMH, all records containing identifying information related to individual clients are exempt as specified in Welfare and Institutions Code (WIC), Section 5328 et sequela.



DEPARTMENT OF MENTAL HEALTH POLICY/PROCEDURE

SUBJECT: ACCESS TO PUBLIC RECORDS	POLICY NO. 104.6	EFFECTIVE DATE 10/1/89	PAGE 2 of 4
---	----------------------------	-------------------------------------	-----------------------

- 3.2.2.1 Certain sections of the Public Records Act provide limited exemptions for certain types of public records. County Counsel, through the Office of the Chief Deputy Director, should be consulted on any legal question regarding the disclosure of information.

PROCEDURE

4.1 Gaining Access to Departmental Public Records

- 4.1.1 All requests to inspect or copy DMH records must be channeled through the Office of the Chief Deputy Director.
- 4.1.2 Within ten (10) working days after the receipt of a formal written request for a public record, the DMH must determine whether to comply with the request and notify the requestor accordingly.
- 4.1.3 An extension of ten (10) working days may be granted in specified instances if:
- 4.1.3.1 A voluminous amount of records must be found and assembled;
- 4.1.3.2 Records must be obtained from another agency;
- 4.1.3.3 Consultation with another agency is required.
- 4.1.4 If records must be obtained from another agency, it is recommended that the requestor secure the records from the alternate source.
- 4.1.5 If a request is denied, notification of the denial will come through the Office of the Chief Deputy Director.

4.2 Fees and Charges

- 4.2.1 Copies of public records will be made available to the general public upon payment of certain fees and charges. These will be determined by the Auditor-Controller.
- 4.2.1.1 These fees represent the reasonable cost for duplication, including labor, materials, overhead, postage, etc.
- 4.2.1.2 Monies collected as fees and charges for this service are subject to accounting procedures and controls prescribed by the Auditor-Controller and are deposited in the County Treasury. These monies are then credited to the DMH.



DEPARTMENT OF MENTAL HEALTH POLICY/PROCEDURE

SUBJECT: ACCESS TO PUBLIC RECORDS	POLICY NO. 104.6	EFFECTIVE DATE 10/1/89	PAGE 3 of 4
---	----------------------------	-------------------------------------	-----------------------

4.2.2 Safeguards to prevent the loss or theft of money received in payment for copying services are outlined in DMH Policy #404.1, "Procedures for Clinical Cash Handling, Deposit of Patient Revenues, and Financial Record Keeping."

4.3 Records Service Area

4.3.1 DMH will designate a suitable site where the public can inspect or acquire copies of records during normal business hours.

4.3.2 There will be a posted document, easily accessible to public view, indicating that the official copy of a County record cannot be removed from the premises for any reason.

4.4 Safeguards to Protect Records from Mishandling, Theft, Loss, or Defacement

4.4.1 Unless authorized by the Office of the Chief Deputy Director, all requested documents approved for release will be handled by County employees. The requestor will not handle the original document.

4.4.2 When it is necessary that the requestor handle the original document, the records will then be under the observation of a person designated by the Chief Deputy Director.

4.5 Computer, Magnetic, and Photographic Data

4.5.1 The Los Angeles County Code provides that computer data, audio, and photographic records need not be copied if an exact duplicate of such data or information contained therein is available for copying in printed or photographic form. This data will be reproduced by the most economical method (i.e., photocopied) unless otherwise requested. This does not include data analyses which have not already been generated as a report.

4.5.1.1 If a paper copy is not available, non-exempt computer data will be reproduced as requested after the collection of appropriate fees covering costs of such reproduction. Computer data will be provided in a format determined by the custodian of the data.

4.5.1.2 The public is entitled to copies of only those computer programs, or any part thereof, developed and utilized by County agencies, providing they are not exempt from public inspection. Providing copies of copyrighted material which would infringe on the copyright is prohibited.



DEPARTMENT OF MENTAL HEALTH POLICY/PROCEDURE

SUBJECT: ACCESS TO PUBLIC RECORDS	POLICY NO. 104.6	EFFECTIVE DATE 10/1/89	PAGE 4 of 4
---	----------------------------	-------------------------------------	-----------------------

4.5.2 The delivery of copies (or portions) of computer programs must be accompanied by a statement to the requestor, signed by the Chief Deputy Director or designee, that the concerned County agency disclaims any and all liability involved in the use and results derived from the program.

4.6 Assistance

4.6.1 Matters concerning the legal aspects of public inspection and copying of County records are to be referred to County Counsel, through the Office of the Chief Deputy Director.

4.6.2 Questions concerning copy charges and related costs should be directed to the Auditor-Controller, through the Office of the Chief Deputy Director.

AUTHORITY

California Public Records Act, 1968
Government Code, Section 6254

ATTACHMENT

Government Code, Section 6254

GOVERNMENT CODE SECTION 6254

Except as provided in Section 6254.7, nothing in this chapter shall be construed to require disclosure of records that are any of the following:

"(a) Preliminary drafts, notes, or interagency or intraagency memoranda which are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding those records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, until the pending litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) Contained in or related to:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of, any state agency referred to in subdivision (1).

(3) Preliminary drafts, notes, or interagency or intraagency communications prepared by, on behalf of, or for the use of, any state agency referred to in subdivision (1).

(4) Information received in confidence by any state agency referred to in subdivision (1).

(e) Geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person.

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any such investigatory or security files compiled by any other state or local police agency, or any such investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes, except that state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, vandalism, vehicle theft, or a crime of violence as defined by subdivision (b) of Section 13960, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation; provided, however, that nothing in this division shall require the disclosure of that portion of those investigative files which reflect the analysis or conclusions of the investigating officer.

Other provisions of this subdivision notwithstanding, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name, current address, and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

(2) The time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date and location of occurrence, the time and date of the report, the name, age and current address of the victim, except that the address of the victim of any crime defined by Section 261, 264, 264.1, 273a, 273d, 286, 288, 288a, or 289 of the Penal Code shall not be disclosed, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code.

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained, provided, however, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes which is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on the borrowers.

(k) Records the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(l) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's legal affairs secretary, provided that public records shall not be transferred to the custody of the Governor's legal affairs secretary to evade the disclosure provisions of this chapter.

(m) In the custody of or maintained by the Legislative Counsel.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish his or her personal qualification for the license, certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application which are subject to disclosure under this chapter.

(p) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1, Chapter 10.5 (commencing with Section 3525) of Division 4 of Title 1, and Chapter 12 (commencing with 3560) of Division 4 of Title 1, which reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or which provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under the above chapters. Nothing in this subdivision shall be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this subdivision.

(q) Records of state agencies related to activities governed by Articles 2.6 (commencing with Section 14081), 2.8 (commencing with Section 14087.5), and 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institution Code, which reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or which provide instruction, advice, or training to employees.

Contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. In the event that a contract for inpatient services which is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

(r) Records of Native American graves, cemeteries, and sacred places maintained by the Native American Heritage Commission.

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals which has been transmitted to the State Department of Health Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code."

Nothing in this section is to be construed as preventing any agency from opening its records concerning the administration of the agency to public inspections, unless disclosure is otherwise prohibited by law.

Nothing in this section is to be construed as preventing any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act.